



MAYOR CHRIS BEUTLER

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VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch,

The City of Lincoln, Nebraska writes to express its concerns about the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment.

The City of Lincoln has a strong track record of partnering with broadband providers. In 2012, the City of Lincoln invested public funds in building a fiber conduit network in our community. The goal was to attract broadband providers and investment by greatly reducing the cost of constructing in the public Right-of-Way (ROW) and improving the speed to market. Following the city's actions, more than \$220 million in privately-owned broadband infrastructure has been deployed in our community. These investments are directly attributed to Lincoln's nationally recognized model of "broadband deployment through partnership."

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemptive measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability.

- **The FCC's proposed new collocation shot clock category is too extreme.** The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic, landmark districts, Capitol environs, and environmental reviews, this places an unreasonable burden on local governments to protect historic preservation efforts, and prevent environmental, safety or other harms to the community.
- The City of Lincoln, in partnership with local engineers, pole manufactures, and nationally-recognized wireless providers, developed and implemented pole design standards to ensure structures could safely support small cell equipment as well as address uniformity of installations in our community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial, potentially dangerous and will necessitate more detailed engineering review(s) than the FCC has allowed for in its proposal.
- **The FCC's proposed definition of "effective prohibition" is overly broad.** The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, pole spacing, undergrounding, and the ability to provide an adequate power supply to certain locations.
- **The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for everyone, regardless of their income level or address. The City of Lincoln has worked in good faith to negotiate fair deals with wireless providers based on a local business model. While the Commission has moved away from rate regulation in recent years, it is alarming to learn that the Commission has abandoned local rights and decided to dictate the rates charged by municipalities.

The City of Lincoln has worked with the private sector to build the best broadband infrastructure possible for our businesses and residents. We oppose this effort to restrict local authority, stymie local innovation, and subsidize small cell broadband providers while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Sincerely,



Chris Beutler
Mayor of Lincoln